

PARK OPTION

ADOPTED BY THE
MAYOR AND COUNCIL

September 27, 2004

ORDINANCE NO. 10053

RELATING TO DEVELOPMENT IMPACT FEES FOR ROADS AND PARKS;
AMENDING TUCSON CODE, CHAPTER 23A, DEVELOPMENT
COMPLIANCE CODE, RENUMBERING ARTICLE III, DEFINITIONS, AS
ARTICLE IV, ADOPTING A NEW ARTICLE III, IMPACT FEES DIVISION
1, APPLICABILITY AND INTENT; DIVISION 2, FEE CALCULATION;
DIVISION 3 GENERAL PROVISIONS; AND ESTABLISHING AN
EFFECTIVE DATE.

WHEREAS the City of Tucson has the authority to assess development impact fees for roads and parks pursuant to Section 9-463.05 of the Arizona Revised Statutes; and

WHEREAS the protection of the health, safety, and general welfare of the citizens of the City requires that the capacity of roads and parks of the City be expanded to meet the demands of new development; and

WHEREAS the expenditure of funds by the City on arterial road and regional park improvements are authorized municipal expenditures; and

WHEREAS the creation of an equitable impact fee system enables the City to insure that the appropriate proportionate share of the costs of required improvements to arterial road and regional park systems is funded by the developments that create the need; and

WHEREAS the impact fee study sets forth methodologies and analyses for determining a reasonable fee for the impacts of various types of development on the City's arterial road and regional park systems; and

WHEREAS the impact fees described in this ordinance are based on the impact fee study, and do not exceed the capital costs required to serve the development that will pay the fees; and

WHEREAS the City has the legal authority to provide for access to public subsidized housing and by doing so provides for the health, safety and general welfare

of its citizens; and

WHEREAS the expenditure of funds on capacity improvements to arterial roads within the City is a necessary municipal expense regardless of whether the improvements are partially funded by money from federal, state or county sources; and

WHEREAS the City has held a public hearing and has determined that the Old Vail Road extension between Houghton and the City Limits which is currently designated as an arterial road (the future "Cienega Road") should be designated as an eligible project for impact fees in the Southeast Benefit District; and

WHEREAS the impact fee formulas recognize the credits and offsets against the fee for the contributions made or to be made in the future in cash or by taxes, fees or assessments by property owners toward the capital costs of necessary public infrastructure or services covered by the fee; and

WHEREAS there is both a rational nexus and a rough proportionality between the development impacts created by each type of new development covered by this ordinance and the impact fees that such development will be required to pay; and

WHEREAS this ordinance creates a system by which impact fees paid by impact-generating development within each benefit district will be used to expand the capacity of arterial road and regional park systems within each benefit district, so that the development that pays each fee will receive a corresponding benefit within a reasonable period of time after the fee is paid; and

WHEREAS, on April 12, 2004, the Mayor and Council duly notified the public of its intention to adopt road and park impact fees and released to the public the impact fee study; and

WHEREAS City staff has met regularly with members of the public and interested parties concerning the proposed fee and the impact fee study between the notice of intention to adopt impact fees and the public hearing on adopting impact fees; and

WHEREAS on September 13, 2004, the Mayor and Council conducted a duly noticed public hearing on the proposed impact fees;

THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. Article I, General Provisions, Division 1, Introduction, Section 23A-2, Purpose is amended to read as follows:

"Chapter 23A is established to identify the processes for the review and approval of proposed development for compliance with the technical and objective requirements of the Land Use Code (LUC), Chapter 23 of the Tucson Code and to provide for the

calculation, assessment and collection of impact fees.”

SECTION 2. Article III, Definitions, of Chapter 23A of the Tucson Code is renumbered to “Article IV, Definitions”.

SECTION 3. Division 1, General Provisions, of Article IV, Definitions, as renumbered by Section 1 above, is amended to renumber Section 23A-71, Section 23A-72, and Section 23A-73 to Section 23A-101, Section 23A-102 and Section 23A-103, respectively.

SECTION 4. Division 2, List of words and terms, of Article IV, Definitions, as renumbered by Section 1 above, is amended to renumber Section 23A-81 through 23A-106 to 23A-111 to 23A-136, respectively.

SECTION 5. Chapter 23A of the Tucson Code is amended to create a new Article III, entitled Impact Fees, as follows:

CITY CODE OF TUCSON, ARIZONA
CHAPTER 23A. DEVELOPMENT COMPLIANCE CODE
ARTICLE III. IMPACT FEES

DIVISION 1. APPLICABILITY AND INTENT

23A-71 SHORT TITLE AND APPLICABILITY
23A-72 INTENT

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DIVISION 1. APPLICABILITY AND INTENT.

Sec. 23A-71. SHORT TITLE AND APPLICABILITY.

- (1) Short Title. This article may be known and cited as Tucson's "Impact Fee Regulations," and is referred to herein as "this article."

- (2) Applicability. The provisions of this article shall apply to all of the territory within the corporate limits of the City of Tucson.

Sec. 23A-72. INTENT.

- (1) The intent of this article is to ensure that impact-generating development bears a reasonable proportionate share of the cost of improvements to the City's arterial road system; and regional park systems; to ensure that the proportionate share does not exceed the cost of providing arterial roads and parks; to ensure that funds collected from impact-generating development are actually used to construct arterial road or regional park system improvements within that benefit district that serve new development; to ensure that funds collected from impact-generating development within a specific benefit district are spent only within that benefit district; and to provide for appropriate credits and offsets to the established fees. It is further the intent of this article to use road and park impact fees to implement the City's General Plan and Major Streets and Routes Plan.
- (2) It is not the intent of this article to collect any money from any impact-generating development in excess of the actual amount necessary to offset demands generated by that development for arterial road or regional park system improvements for which the fee was paid.

DIVISION 2. FEE CALCULATION

Sec. 23A-81. FEE DETERMINATION.

- (1) Fee Schedule. Any person who applies for a building permit for an impact-generating development, except as otherwise provided in this article, shall pay a road and park impact fee in accordance with the following fee schedule. The arterial road impact fees have been calculated in accordance with the formulas stated in Sec. 23A-85 (3) and based upon the data provided by the Impact Fee Study. The arterial road impact fee for Residential, not including Mobile Home and Motel/Hotel, as shown on the fee schedule below, represents a rate of ninety-three percent (93%) of the full cost as determined by the impact fee study. If any public funding credit or offset is due pursuant to Sec. 23A-82 (2) or Sec. 23A-87, the amount of such credit or offset shall be deducted from the amount of the fee to be paid at the time the fee is paid.

(a) Arterial Road Impact Fee Schedule.

Land Use Type	Unit	Roads		Central
Residential	Sq. ft.	\$2.00		\$1.54
Mobile Home	Per Unit	\$2,553		\$1,965
Motel/Hotel	Room	\$1,203		\$926
GENERAL RETAIL/COMMERCIAL				
Shopping Center/Retail	Sq. ft.	\$3.976		\$3.061
OFFICE/INSTITUTIONAL				
General Office	Sq. ft.	\$4.724		\$3.637
INDUSTRIAL				
Industrial/warehousing	Sq. ft.	\$2.039		\$1.570

- b) Regional Park Impact Fee Schedule. The Regional Park Impact Fee is \$0.80 per square foot of new residential development. This fee is based on the impact fee study and the data regarding the median household size provided in the public hearing. The Regional Park Fee is not subject to the reduction of the fee provided in Section 23A-81 (8).
- (2) Annual fee adjustment. On January 15, 2008, and each January 15 thereafter, the impact fees established herein shall be adjusted for cost of living increases and changes to revenue credits. The impact fee adjustment pursuant to this Section 23A-81(2) shall not exceed five percent (5%) for the initial adjustment and each annual adjustment thereafter.
- (a) The adjustment for cost of living shall be based on the Engineering News Report, Construction Cost Index or comparable successor index if that index is discontinued. The adjustment shall be computed by:
- (1) Calculating the percent increase in the Engineering News Report, Construction Cost Index between the most recently published Engineering News Report, Construction Cost Index at the time of the adjustment and the Engineering News Report, Construction Cost Index used for the previous calculation; and
 - (2) Multiplying the percentage derived from 23A-81(2)(a)(1) above times the impact fee to be assessed for the year following July 15; and
 - (3) Adding the amount derived in 23A-81(2)(a)(2) above to the impact fee to be assessed for the year following July 15.

- (b) Any adjustment for revenue credits shall take into account any additional revenue sources for the projects for which impact fees are to be used and deduct any increased revenue credit in accordance with the formula used to establish the fee set forth in Sec. 23A-81 (1) above.
- (3) Determination of Applicable Category. In determining the applicable impact fee category for a specific use, the Impact Fee Administrator shall determine the most appropriate category based upon (1) the impact generated by the development, (2) comparable land use classifications under the Land Use Code and (3), for road impact fees, the comparable trip generation rates contained in the most current edition of the report titled *Trip Generation*, prepared by the Institute of Transportation Engineers (ITE), or articles or reports appearing in the ITE Journal. If the Impact Fee Administrator determines that the proposed use is not within any category listed on the fee schedule, the administrator may calculate the road impact fee administratively based on the formula in Sec.23A-85 and available data, or require that the applicant prepare an independent fee calculation study pursuant to Sec.23A-85. If the Impact Fee Administrator determines the road impact fee administratively and the applicant does not agree with the determination, the applicant may prepare an independent fee calculation study.
- (4) Fee Assessed on Primary Use. If there is more than one primary use within a building, the impact fees shall be calculated separately for the two primary uses and the results summed. In many instances, a particular structure may include auxiliary uses associated with the primary land use. For example, in addition to the actual production of goods, manufacturing facilities usually also have office, warehouse, research, and other associated functions. The impact fees generally are assessed based on the primary land use. If the applicant can document that a secondary land use accounts for over 25% of the gross floor area of the structure, and that the secondary use is not assumed in the trip generation or other impact data for the primary use, then the impact fees may be assessed based on the aggregated square footage of the primary and secondary land use.
- (5) Net Impact of Redevelopment. If a new impact-generating development is an expansion, redevelopment or modification of an existing development or a development that had been in existence within the prior ten (10) years, the impact fee shall be assessed for the amount of square footage that exceeds the prior square footage of the structure. Increases in square footage of residential structures that do not create new dwelling units shall not be assessed an impact fee.

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- (6) No Refund for Redevelopment. If an expansion, redevelopment or modification results in a net decrease in the impact fee for the new development as compared to the existing or prior development, there shall be no refund of impact fees previously paid.
- (7) Administrative Charges. The City shall initially assess a surcharge of fifty dollars (\$50.00) to cover administrative expenses. The administrative charge may not be paid with impact fee offsets. The administrative charge shall be in addition to the amount of the fee that is due and shall be paid at the same time as the fee. Commencing July 15, 2005, the administrative fee may be amended to reflect the actual administrative costs by the Development Services Department. Any amendment shall be adopted as a development standard with the approval of the Mayor and Council.
- (8) Fee Assessed in Central Benefit District. The arterial road impact fee assessed in the Central District in accordance with Sec. 23A-81(1) is seventy-seven percent (77%) of the fee assessed in the other districts based upon the reduced traffic impact of development within Central Benefit District documented in the Impact Fee Study. Offsets and credits shall be determined based upon the full value of each offset or credit.
- (9) Cap on Residential fees. The arterial road and regional park impact fees for residential uses shall be capped at 3,000 square feet for each dwelling unit.

Sec. 23A-82. CREDITS.

- (1) Public Revenue Credits. Public revenue credits have been deducted in the calculation of the impact fee amount stated in Section 23A-81(1) as set forth in the impact fee study.
- (2) Public Funding Credits.
 - (a) Where all or a portion of the construction of a development is directly funded with appropriated funds duly authorized by a local, state or federal government, a public funding credit shall be deducted from the impact fee calculated in Sec. 23A-81 or as calculated in Sec. 23A-85 after the fee calculation and prior to the assessment and payment of the fee. The public funding credit shall be a percentage of the impact fee. The percentage shall be determined based upon the amount of public monies as a percentage of the total cost of the construction of the development project utilizing public funding. The public funding credit shall not apply to guaranteed loans, tax credits or other indirect government financing.

- (b) Where construction of infrastructure which is an eligible expenditure of impact fees in accordance with Sec. 23A-84 is financed by a municipal improvement district or community facilities district, or other similar special taxing district with governmental authority, a public funding credit shall be deducted from the impact fee as calculated in Sec. 23A-81 or as calculated in Sec. 23A-85 after the fee calculation and prior to the assessment and payment of the fee. The public funding credit shall be a percentage of the impact fee. The percentage shall be determined based upon the amount of public monies that are to be used as a percentage of the construction cost of the eligible infrastructure utilizing public funding.

Sec. 23A-83. EXEMPTIONS. The following shall be exempt from the terms of this article. An exemption must be claimed at the time of application for a building permit.

- (1) Residential Alterations. Alterations of an existing dwelling unit where no additional dwelling units are created.
- (2) Residential Replacement. Replacement of a destroyed, partially-destroyed or moved residential building or structure with a new building or structure that does not create additional dwelling units.
- (3) Nonresidential Replacement. Replacement of destroyed, partially-destroyed or moved nonresidential building or structure with a new building or structure and same gross floor area.
- (4) Nonresidential Change of Use. A change of use for a nonresidential structure that does not result in any increase in gross floor area of the structure.
- (5) Government Projects. Development by a governmental entity for a governmental purpose on property owned by a governmental entity.
- (6) No Waivers. Impact fees shall not be waived.

Sec. 23A-84 EXPENDITURE OF FUNDS. Impact fees collected by the City shall be spent as follows.

- (1) Segregation of Funds. Separate interest-bearing accounts for impact fee funds that are distinct from the general fund of the City are hereby created for each benefit district, and the impact fees collected from each benefit district will be deposited in the separate fund for the benefit district from which the impact fees are collected. Separate funds shall be established within each benefit district for arterial road

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impact fees and for regional park impact fees.

- (2) FIFO Accounting. Monies in each impact fee account shall be considered to be spent in the order collected, on a first in/first out basis.
- (3) Benefit Districts. For the purposes of administering this article, all territory within the incorporated boundaries of the City shall be included in a benefit district. The benefit districts are set forth on the Impact Fee Benefit District Map on file with the Development Services Department. The area of each benefit district shall extend to the center line of the street which forms the boundary of the district. Impact fees shall be used only for improvements that are located within the same benefit district in which the development occurs which is the subject of the impact fee and from which the impact fees have been collected.
- (4) New Territory. Upon annexation of new territory into the City, newly annexed territory shall be included in existing benefit districts in the following manner based on the present alignments as shown on the benefit district map.
 - (a) Property east of Interstate 10, north of Prince Road and west of Alvernon Way to the city limits shall be in the Central Benefit District.
 - (b) Property west of Interstate 10 from the north city limits to Alvernon Way, west of Alvernon Way between Interstate 10 and Hughes Access Road, and north of Hughes Access Road to the north and western city limit shall be in the West Benefit District.
 - (c) Property east of Alvernon Way, north of Los Reales Road between Alvernon Way and Wilmot Road and north and east of Golf Links Road to the city limit shall be in the East Benefit District.
 - (d) Property east of Wilmot Road, south of Golf Links Road and northeast of Interstate 10 from Wilmot Road to the southeast city limit shall be in the Southeast Benefit District.
 - (e) Property south of Hughes Access Road from the western city limits to Alvernon Way, south of Los Reales Road from Alvernon Way to Interstate 10 and south and west of Interstate 10 from Los Reales Road to the west, south and southeast city limits shall be in the Southlands Benefit District.

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- (5) Identification of Eligible Projects. Impact fees shall be spent only upon eligible projects which shall consist of arterial road and regional park system improvements within the benefit district in which the fee is collected. The City's Capital Improvement Plan shall identify and list in order of priority the eligible projects within each benefit district which are eligible for use of impact fees. The list of eligible projects shall be reviewed and may be modified on an annual basis. The priority of eligible projects shall demonstrate the anticipated expenditure of impact fees but impact fees may be spent on any arterial road or regional parks within the benefit district.
- (6) Public Hearing. The identification and listing of eligible projects shall be established following a public hearing on proposed projects prior to or concurrent with the annual approval of the Capital Improvement Plan.
- (7) Eligible Expenditures. The monies used in each impact fee account shall be used only for the following purposes.
 - (a) To pay for the cost of capital improvements of the type reflected in the title of the account which increase service capacity (including without limitation costs for design, engineering, construction and administration); and
 - (b) To pay for the acquisition of real property for regional parks; and
 - (c) To pay debt service on any portion of any current or future general obligation bond or revenue bond issued after the effective date of this article and used to finance improvements of the type reflected in the title of the account.
- (8) Ineligible Expenditures. The monies in each impact fee account shall not be used for the following.
 - (a) Rehabilitation, reconstruction, replacement or maintenance of existing facilities except to the extent that the projects increase the capacity to serve new development;
 - (b) Ongoing operational costs; or
 - (c) Except as provided in Section 23A-84 (9) below, debt service for any past, current or future general obligation bond or revenue bond used to pay for any improvements commenced prior to the effective date of this article.
- (9) Joint Governmental Financing. Where there is an intergovernmental agreement approved by the Mayor and Council that provides for the

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use of non-City public funds for capacity improvements on arterial roads or regional parks within the City, impact fees may be used to contribute to the overall cost for such improvements, including reimbursement to another governmental entity, provided that the improvements, except for the funding from another jurisdiction, satisfy all criteria for expenditure of impact fees and provided the total amount does not exceed the amount of fees that could have been applied to the improvements in the absence of the funding by the other governmental entity.

- (10) Special Development Agreement Provisions. Where a development agreement approved by the Mayor and Council provides for reimbursement to a developer for installation of arterial road system or regional park improvements, the reimbursement may be paid from impact fees for the benefit district in which the improvements are located as fees are collected. Any such reimbursement shall be deducted from the amount of available offsets.
- (11) Master Planned Developments. Development of tracts of land as master planned developments in conformance with the General Plan may provide through a development agreement approved by the Mayor and Council for alternative calculation and assessment of impact fees, credits and offsets and designation of projects to be funded provided the alternative fees are not less than the fees that would be charged under Sec. 23A-81 and the funding of arterial roads and regional parks is not less, respectively, than the funding that would be provided under Sec 23A-81.
- (12) Time for Expenditure. Impact fees collected by the City shall be spent upon eligible improvements within a reasonable period from the date of collection. Impact fees which are not spent within the same year that they are collected may be spent in subsequent years as provided above. The City shall annually report on the amount of impact fee within each benefit district which are carried over from previous years.
- (13) Advance expenditure of fees. Where the City or another governmental entity expends funds on capacity improvements which are eligible for use of impact fees, impact fees collected within the same benefit district may be used after collection to reimburse the governmental fund which advanced the money for the cost of the capacity improvements.
- (14) Designation of Arterial Roads. Arterial roads shall be designated in the City's Major Streets and Routes Plan which shall be updated annually at least thirty (30) days prior to the public hearing on the eligible projects provided for in Section 23A-84 (6). During the time period

between the adoption of each annual update to the Major Streets and Routes Plan, the Director of the Department of Urban Planning and Design may designate any road that meets the criteria for an arterial road as an arterial road for the purposes of this Article. Such designation shall be proposed for incorporation into the next updated Major Streets and Routes Plan. In the event that a designation by the Director is not incorporated into the next adopted Major Streets and Routes Plan, any impact fees or offsets that were assessed or credited during the time of the designation shall not be effected by the change in designation.

Sec. 23A-85. INDEPENDENT FEE CALCULATION. The impact fee may be computed by the use of an independent fee calculation study for arterial road impact fees at the election of the applicant, or upon the request of the Impact Fee Administrator, for any proposed development that is not within one of the categories listed on the fee schedule. This section does not apply to fee calculation in accordance with Sec. 23A-84 (10) and (11).

- (1) Cost of Study; Fee. The preparation of the independent fee calculation study shall be the sole responsibility and cost of the applicant. Any person who requests to perform an independent fee calculation study shall pay an application fee for administrative costs associated with the review and decision on such study.
- (2) Content of Study. The independent fee calculation study shall be based on the same service units, formulas, level of service standards and unit costs for facilities used in the impact fee study, and shall document the methodologies and assumptions used. The scope of the study shall be approved in advance by the Impact Fee Administrator and shall be prepared by professionals with appropriate credentials who shall use commonly accepted methodologies and assumptions that comply with the requirements of applicable law and which document the conclusions of the study. For the road impact fee, the fee calculation shall use trip generation rates contained in the most current edition of the report titled *Trip Generation*, prepared by the Institute of Transportation Engineers (ITE), or articles or reports appearing in the ITE Journal. The “cost” for improvements and the public revenue credits to be calculated in the formula shall be based upon the most current data available from the City of Tucson.
- (3) Road Impact Fee Formula. The road impact fees shall be calculated according to the following formula.

$$\text{FEE} = \text{VMT} \times \text{NET COST/VMT}$$

Where:

VMT	=	TRIPS x % NEW x LENGTH ÷ 2
TRIPS	=	Trip ends generated by the development during the PM peak hour
% NEW	=	Percent of trips that are primary trips, as opposed to pass-by or diverted-link trips
LENGTH	=	Average length of a trip on arterial road system
÷ 2	=	Avoids double-counting trips for origin and destination
NET COST/VMT	=	COST/VMT – REVENUE CREDIT/VMT
COST/VMT	=	COST/VMC x VMC/VMT
COST/VMC	=	Average cost to create a new VMC based on historical or planned improvements
VMC/VMT	=	The system-wide ratio of capacity to demand in the major road system
REVENUE / CREDIT /VMT	=	Revenue credit per VMT, based on revenues to be generated by new development

- (4) Independent Fee Approval. The Impact Fee Administrator determines whether the independent fee study and calculation are in conformance with this Article and assesses impact fees accordingly.

Sec. 23A-86 ASSESSMENT AND PAYMENT OF FEES. Impact fees shall be assessed and paid as follows.

- (1) Residential Development. Commencing July 15, 2005, impact fees on residential development shall be assessed and paid prior to, and as a condition of, the issuance of a building permit for construction of a structure. For the period from July 15, 2005 through and including January 15, 2006, impact fees on residential development shall be initially assessed at a rate of fifty percent (50%) of the fee listed in Section 23A-81(1). The fee shall be fully assessed and paid thereafter.
- (2) Nonresidential Development. Impact fees on nonresidential development shall be assessed and paid prior to, and as a condition of, the issuance of a temporary or permanent certificate of occupancy to an owner or occupant for all or a portion of a structure commencing July 15, 2006. The impact fee on nonresidential structures shall be assessed and paid at a rate of fifty percent (50%) of the fee listed in

Section 23A-81(1) for the period from July 15, 2006 through and including January 15, 2008. The fee shall be fully assessed and paid thereafter.

Sec. 23A-87. OFFSETS. Offsets against the road and park impact fees shall be provided for contributions towards the arterial road system and regional park system capacity improvements as defined herein regardless of whether the arterial road or regional park is listed in the City's Capital Improvement Plan. Both the improvements and the use of the offset must be within the same benefit district as the development for which the offsets are claimed. Offsets shall be submitted and approved in accordance with the applicable Development Standard.

- (1) Offset Calculation. The value of offsets shall be established based on the costs to design, engineer and administer construction of arterial road or regional park improvements. Arterial road offsets shall include new roads and widening of existing roads, road pavement, curbs and curb cuts, bridges, sidewalks, pedestrian facilities, trails, drainage structures, medians, street lighting, landscaping and irrigation, 1% public art, bike paths, intersection improvements, acceleration and deceleration lanes, turn lanes, parking lanes, traffic signals and other improvements designated by the City as the capacity improvements for the arterial road section for which the offset is claimed. Regional park offsets may include dedication of land valued in accordance with Sec. 23A-87(5). Offsets shall be calculated at the same time that the impact fee is calculated and shall be deducted from the assessed fee to determine the amount due. Except as provided in Sec. 23A-87(8) and (9) below, offsets shall be calculated based on the full value of the offset.
- (2) Claims for Offsets. In order to receive an offset, the developer shall submit a request for offset in such form as may be prescribed by the Impact Fee Administrator, which shall include completed engineering drawings and specifications, and shall provide such other information as is necessary for the Impact Fee Administrator to clearly identify what portion of the assumed cost of arterial road or regional park system improvements will be constructed, and the amount of the offset to which the developer is entitled.
- (3) Effective Upon City Acceptance. Approved offsets for the arterial road and regional park system improvements shall generally become effective when the improvements have been completed and have been accepted by the City.

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- (4) No Offset for Improvements Not Covered by the Fee. No offset will be applied to the impact fee for dedication of right-of-way, dedication of land other than land for regional parks, construction of improvements to the non-arterial street system or other improvements which are not included in the calculation of the impact fee.
- (5) Land Valuation. Offset for dedication of land for regional parks shall be based on the value of the land to be dedicated. The value of any such land required to be dedicated during the subdivision process shall be based upon the "fair market value" of the land at the time of approval of the final plat. The value of any land required to be dedicated as part of a rezoning or other approval shall be based on the value of the land at the time of the ordinance adoption. The value shall be determined by a certified appraiser in accordance with standard City of Tucson real estate appraisal procedures
- (6) Allocation of Offsets Within a Development. Unless otherwise specified in accordance with the applicable Development Standard or a development agreement, in the event that the impact-generating development for which offsets have been issued is sold to different owners, the offsets usable by each new owner shall be calculated in terms of a percentage of the impact fees that would otherwise be due from the entire development. If the total amount of development is not known, the maximum potential development under existing development regulations shall be assumed. This percentage reduction will be applied to all impact fees assessed within the development until the total amount of the offsets is exhausted or the development is completed, whichever occurs first.
- (7) Allocation of Offsets Outside a Development. In accordance with the applicable development standard or a development agreement between the City and the developer of a property, all or part of the offsets generated by a specific development may be allocated to other developments within the same benefit district.
- (8) Offsets Prior to Full Fee Assessment. Applicants may also obtain offsets for arterial road and regional park system improvements completed prior to the effective date of this article. Applicants may use such offsets to reduce the impact fees due after the effective date of this article for arterial road and regional park system improvements generated by the same impact-generating development for which the offsets were issued. In the event that the impact-generating development for which the offsets are claimed is partially completed, the amount of the offsets shall be reduced by the amount of the impact fees that would have been charged for the completed portion of the development had this article been in effect. In the event that the

impact-generating development project has been fully completed, no offsets shall be issued.

- (9) Offsets for Expenditures Prior to Annexation. Offsets may be claimed for eligible expenditures made prior to annexation into the City provided that the improvements are within the applicable benefit district at the time the offset is claimed. Offsets under this subsection shall be a percentage of the full offset that is equal to the percentage of the development that will be subject to the fees. Thus if 60% of the development is subject to the fees under this article, the project is eligible for 60% of the offsets attributed to the development.
- (10) Claims Filed Before Building Permits. Offsets must be approved prior to the application for the initial building permit. Offsets may be approved by development agreement prior to the initial building permit. Any right to offset not claimed prior to the issuance of a building permit shall be deemed to be waived. Offsets may be amended after assessment of the impact fee in accordance with Section 23A-91(3).

DIVISION 3. GENERAL PROVISIONS

Sec. 23A-91. MISCELLANEOUS PROVISIONS.

- (1) Other Development Requirements. Nothing in this article shall restrict the City from requiring the construction of reasonable project improvements required to serve the development project, whether or not such improvement are of a type for which offsets are available under 23A-87.
- (2) Record-Keeping. The Impact Fee Administrator shall maintain accurate records of the impact fees paid and any other matters that the City deems appropriate or necessary to the accurate accounting of such fees. Records shall be available for review by the public during normal business hours and with reasonable advance notice. Records pertaining to individual developments may be destroyed three (3) years after the completion of the development or the expenditure of all offsets, whichever is later.
- (3) Amendment of Impact Fee Assessments. An impact fee may be amended after it has been assessed and paid where there is an error or mistake in the calculation of the fee or applicable credits or offsets, or where the actual cost of offsets changes after the calculation of the offset.. Any amounts overpaid by an applicant shall be refunded by the Impact Fee Administrator to the applicant within thirty (30) days after the acceptance of the recalculated amount. Any amounts underpaid by the applicant shall be paid to the Impact Fee Administrator within

thirty (30) days after the acceptance of the recalculated amount. In the case of an underpayment to the Impact Fee Administrator, the City may not issue any additional permits or approvals for the project for which the impact fee was previously underpaid until such underpayment is corrected, and if amounts owed to the City are not paid within such thirty (30) day period, the City may also rescind any permits issued in reliance on the previous payment of such impact fee.

Sec. 23A-92. APPEALS AND INTERPRETATIONS.

- (1) Appeals. Any individual calculation of an impact fee, funding credit or offset made by the Impact Fee Administrator charged with the administration of any part of this article may be appealed in accordance with the Mayor and Council Appeal Procedure, Sec. 23A-62. Appeals shall be limited to disputes regarding the calculation of the fee due or the amount of a funding credit or offset due. Appeals shall be submitted in writing to the Development Services Department Director within fourteen (14) days of a decision and no later than fourteen (14) days after the determination of the final fee to be charged for a project.
- (2) Interpretations. Any dispute or challenge to the interpretation of this article shall be determined by the Zoning Administrator. The Zoning Administrator's decision may be appealed within thirty (30) days in accordance with the Board of Adjustment Appeal Procedure, Sec. 23A-61.
- (3) Takings Appeal. Any assertion that the assessment of the impact fee on an individual development constitutes an unconstitutional taking may be appealed in accordance with the Takings Appeal Procedure, Sec. 23A-63.
- (4) Building Permits. Building permits may be issued during the pendency of an appeal if the applicant pays the fee at the time the appeal is filed. Upon final disposition of an appeal, the fee shall be adjusted in accordance with the decision rendered and a refund if applicable.

Sec. 23A-93. VIOLATION. Furnishing false information on any matter relating to the administration of this article, including without limitation the furnishing of false information regarding the expected size, use, or impacts from a proposed development, shall be a violation of this article.

Sec. 23A-94. SEVERABILITY. If a provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the article that can be given effect

without the invalid provision or application, and to this end the provisions of this article are severable.

SECTION 6. Article IV, Definitions, of Chapter 23A, Development Compliance Code, Division 2, List of words and terms, as renumbered in Section 2 and 4 above is amended to add the following definitions.

Division 2. List of Words and Terms

Sec. 23A-111. Definitions – A

* * *

Applicant. The applicant for a building permit for which an impact fee is due pursuant to the provisions of this article.

Arterial Road System. Arterial roads identified on the City's Major Street and Routes Plan that are the responsibility of the City of Tucson or which are designated in accordance with Sec. 23A-84(14).

Arterial Road (System) Improvements. Improvements that expand the capacity of the arterial road system, including but not limited to construction of new roads or the widening of existing roads, roadway pavement, curbs and curb cuts, bridges, sidewalks, pedestrian facilities, trails, drainage structures, medians, street lighting, landscaping and irrigation, 1% public art, intersection improvements, acceleration and deceleration lanes, turn lanes, parking lanes, traffic signals and other similar improvements constructed in conjunction with an arterial road capacity improvement. Ancillary components of a capacity-expanding road improvement shall not be considered system improvements when not an integral part of a capacity-expanding improvement.

* * *

Sec. 23A-113. Definitions - C

* * *

Credit. A credit is for the amount of public funds that are subtracted from the impact fee. There are two types of credits, public revenue credits and public funding credits.

* * *

Sec. 23A-119. Definitions – I

Impact Fee Administrator. The Development Services Department Director or designee.

Impact Fees. The road impact fee and the park impact fee.

Impact Fee Study. The *Road and Park Impact Fee Study* prepared for the City of Tucson by Duncan Associates in June 2004, or a subsequent similar report.

Impact-Generating Development: Any land development designed or intended to permit a use of the land that will increase the number of service units.

* * *

Sec. 23A-125. Definitions – O

Offset. Offsets are contributions from developers on individual projects for the construction of the types of public improvements that are included in the calculation of the impact fee and are included in the capacity improvements for arterial road for which the offsets are claimed. Offsets are deducted from the assessed impact fee in accordance with Sec. 23A-87.

Sec. 23A-126. Definitions – P

Public Funding Credit. Public funding credits are credits for funds directly appropriated by local, state and federal governments to pay for all or a portion of a development in order to satisfy a public purpose or the funding of construction of eligible improvements with money from municipal improvement districts, community facilities districts or similar special taxing district with governmental authority. Public funding credits do not include indirect public funding through loans, loan guarantees, tax credits or similar indirect financing. Public funding credits are determined by multiplying the percentage of public money provided for the construction of the project by the amount of the impact fee in accordance with Sec. 23A-82.

Public Revenue Credits. Public revenue credits are credits for funds from local, state and federal taxes and other public revenues which are used in the construction of the public improvements that are the subject of the impact fee. Public revenue credits are subtracted before the impact fee is determined in accordance with Sec. 23A-82.

* * *

Sec. 23A-128. Definitions – R

Regional Park. A park that has at least fifteen acres and provides facilities such a pool, soccer fields, baseball fields, basketball court, recreation center, concert stage or other such facilities for regional recreational uses.

Regional Park System. Park land, facilities and improvements to City-owned land used for active and passive recreational purposes and associated recreational facilities, and recreational facilities and improvements made or installed by the City in regional parks and available for public use.

Regional Park (System) Improvements. Capital improvements that result in a net expansion of the park land or recreational facilities in regional parks that are available to the public. Remodeling, replacement or maintenance of existing equipment or facilities does not constitute a regional park system improvement.

Sec. 23A-129. Definitions – S

Service Units. Vehicle-Miles of Travel and Equivalent Dwelling Units.

* * *

Sec. 23A-132. Definitions – V

Vehicle-Miles of Capacity (VMC). The product of the maximum number of vehicles that can be accommodated on a roadway during an hour and the length of the roadway in miles.

Vehicle-Miles of Travel (VMT). The product of the number of vehicles traveling during the afternoon peak hour of a week day and the distance in miles that those vehicles travel.

SECTION 7. The benefit district map attached to this Ordinance No. _____ establishes the benefit districts provided for in Section 23A-84(3) and shall be kept and made available to the public at the Department of Development Services.

SECTION 8. The Old Vail Road extension between Houghton Road and the City Limits to the east which is currently designated as an arterial road (the future “Cienega Road”), is designated as an eligible project for impact fees in the Southeast Benefit District in accordance with Section 23A-84(5).

SECTION 9. On or before September 27, 2009, the Mayor and Council shall review and consider the effect of the impact fees imposed by this ordinance and shall review and reconsider the elements that constitute the basis for the fee, the appropriate benefit districts, whether to impose additional impact fees for other City capital expenses and whether to create a separate benefit district for large undeveloped areas of a benefit district which encompasses the broader range of infrastructure that will be necessary for the development of that area.

SECTION 10. Sections one through seven of this ordinance shall become effective ninety-one (91) days after the effective date of this ordinance.


SECTION 11. Following the effective date of this ordinance and before the effective date of Sections one through seven of this ordinance, the Director of Urban Planning and Design shall:

PARK OPTION

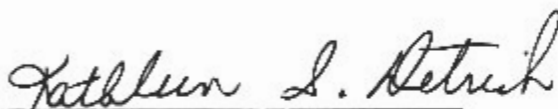
- a. Initiate the first comprehensive update of the Major Streets and Routes Plan as contemplated in Section 23A-84(A); and
- b. Identify as arterial streets those streets which are not now depicted on the Major Streets and Routes Plan which are an approved segment or extension of arterial streets identified on the Major Streets and Routes Plan that are or shall become the responsibility of the City of Tucson.

SECTION 12. WHEREAS, it is necessary for the preservation of the peace, health, and safety of the City of Tucson that this ordinance become immediately effective, an emergency is hereby declared to exist and this ordinance shall be effective upon its passage and adoption.

PASSED, ADOPTED, AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, September 27, 2004.


MAYOR

ATTEST:


CITY CLERK

APPROVED AS TO FORM:


CITY ATTORNEY

REVIEWED BY:


CITY MANAGER

MWLM:dc
09/30/2004 2:03 PM

Benefit Districts

